THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.4661 OF 1998,
WRIT PETITION NO.4692 OF 1998,
WRIT PETITION NO.4906 OF 1998,
WRIT PETITION NO.5898 OF 1998,
WRIT PETITION NO.5902 OF 1998
And
WRIT PETITION NO.6304 OF 1998

Dated: 01-05-2007

IN WRIT PETITION NO.4661 OF 1998:
M/s. Coromandel Roller Flour Mills PVt. Ltd.,
Hussain Nagar, Marripalem, Visakhapatnam,
Rep. by its Director P.K. Gupta. ... Petitioner

vs.

1. Food Corporation of India, Head quarters at
New Delhi, rep. by its Managing Director.,
And 3 others. ... Respondents

IN WRIT PETITION NO.4692 OF 1998:
M/s. Sri Balaji Flour Mills, C.K. Palli Road,
Chittoor, rep. by its Managing Partner
P. Sridhar ... Petitioner

vs.

1. Food Corporation of India, Head quarters at
New Delhi, rep. by its Managing Director.,
And 4 others. ... Respondents

IN WRIT PETITION NO.4906 OF 1998:
M/s. Circar Roller Flour Mills Ltd., Madhavapatnam,
Kakinada, rep. by its Manager
B. Venkateshwara Rao ... Petitioner

vs.

1. Food Corporation of India, Head quarters at
New Delhi, rep. by its Managing Director.,
And 3 others. ... Respondents

IN WRIT PETITION NO.5898 OF 1998:
M/s. Annapurna Flour Mills, PB.No.330, Eluru,534007,
rep. by its Executive Director K.V. Subbarao ... Petitioner

vs.

1. Food Corporation of India, Head quarters at
New Delhi, rep. by its Managing Director.,

And 3 others. ... Respondents

IN WRIT PETITION NO.5902 OF 1998:

M/s. Anjaneya Roller Flour Mills Ltd., Industrial Estate, Vizianagar, rep. by its Director B. Venkateshwara Rao ... Petitioner

vs.

1. Food Corporation of India, Head quarters at New Delhi, rep. by its Managing Director., And 3 others. ... Respondents

AND

IN WRIT PETITION NO.6304 OF 1998:

M/s. Godavari Roller Flour Mills Limited, B1, B2, Industrial Estate, Dhawaleswaram, E.G. District, Rep. by its Manager B. Venkateshwara Rao ... Petitioner

vs.

1.Food Corporation of India, Head quarters at New Delhi, rep. by its Managing Director., And 3 others. ... Respondents

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.4661 OF 1998,
WRIT PETITION NO.4692 OF 1998,
WRIT PETITION NO.4906 OF 1998,
WRIT PETITION NO.5898 OF 1998,
WRIT PETITION NO.5902 OF 1998
And
WRIT PETITION NO.6304 OF 1998

COMMON ORDER :

All these writ petitions are filed with a common prayer seeking declaration that the action of the respondents in collecting the differential cost of the wheat delivered to the petitioners pursuant to the release order dated 4-2-1997 is arbitrary, illegal and consequently direct the respondents to refund the differential cost collected from the petitioners together with interest at the rate of 25% per annum.

The petitioners herein are wheat roller flour mills engaged in manufacture of wheat products for which purpose the wheat is being released from the Food Corporation of India as per the allotment made by the Commissioner of Civil Supplies under OMSS. By letter dated 1-2-1997, 500 MT of wheat was allotted to each petitioner as per the rates shown thereunder making it clear that the petitioner mills shall make the payment before 5-2-1997 and lift the stocks before 10-2-1997.

While so, w.e.f. 5-2-1997 the issue price of wheat was enhanced from Rs.5,573/- per MT to Rs.7,500/- per MT. Basing on the revised price the respondents had insisted that the petitioners shall

pay the differential cost between the amounts paid by the petitioners and the revised amounts as on the date of lifting of the stock on the entire allotted quantity of 500 MT. Though the petitioners contended that since they had paid the entire cost of 500 MT on 4-2-1997 itself i.e., even before the revised prices had come into force and part of the allotted wheat was also released to them on 4-2-2007, the revised prices cannot be made applicable, the respondents were insisting on payment. In the circumstances, the petitioners having paid the differential cost under protest, made several representations for refund of the differential cost. Since there was no response from the respondents, these writ petitions have been filed seeking a declaration that the action of Food Corporation of India in withholding the differential cost collected from the petitioners is arbitrary and illegal.

On behalf of the respondents, counter-affidavits have been filed in which the fact that the release orders were issued on 4-2-1997 for the entire quantity of 500 MT has not been denied. It is also admitted that the said release orders were issued after framing the cost of wheat at the rate of Rs.5,573/- per MT for the total allotment of Metric Tons of wheat. However, it is contended that as per the terms of the release order, the prices prevailing on the date of delivery must be paid by the petitioner and therefore, the Food Corporation of India is entitled to collect differential price from 5-2-1997 for the balance stocks which were not lifted as on that date. It was contended that the sale cannot be said to have been concluded on 4-2-1997 and therefore the Corporation cannot ask for refund of the differential price.

I have heard the learned Counsel for both the parties and perused the material on record.

At the outset, it is to be noted that the release orders contained a specific clause making the petitioners liable to pay the price existing as on the date of the lifting the stock. The said fact has not been disputed by the petitioners. In the circumstances, the mere fact that the petitioners had already paid the entire cost of wheat allotted

to them as per the release order dated 4-2-1997 or the fact that a part of the allotted stock was already released is immaterial and on that ground the petitioners cannot be permitted to contend that they are not liable to pay the enhanced price i.e., the price existing as on the date of lifting the stock.

Similar view has been taken by this Court in W.P.No.7573 of 1991 and etc., dated 2-11-2001.

It is also relevant to note that a Full Bench of this Court in W.P.No.16185 of 1989 and etc., dated 10-10-2001 while interpreting the different provisions of the Food Corporations of India Act, 1964 held that the Corporation is not bound to supply the wheat to the wheat roller flour mills by way of statutory obligation nor the petitioners have any legal right in relation thereto. Having regard to the ratio laid down by the Full Bench, I also find force in the submission of the learned Counsel for the respondents that since the petitioners do not have any legal right nor any legal duty is cast upon the Corporation to supply wheat, the petitioners are not entitled to seek any relief by invoking the jurisdiction under Article 226 of the Constitution of India.

Viewed from any angle, the Writ Petitions are without any substance and the same are accordingly dismissed. No costs.

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G. ROHINI, J.

Dt. 01-05-2007

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